

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge

Case No. 2007-CP-07-02373

Court of Appeals Tracking No. 2010167969

7/2/09

RECEIVED

MAY 06 2014

SC Court of Appeals

Matthew S. McAlhaney, Respondent,

v.

Richard K. McElveen a/k/a Richard K.
McElveen, Sr., Individually and d/b/a
Battery Creek Marina, The Great
Pumpkin, LLC, Linda McElveen, Richard
K. McElveen, Jr., and Billy Joe Byrd, Defendants,

Of whom Richard K. McElveen, Sr., is the Appellant.

**NOTICE OF MOTION AND MOTION TO
EXTEND TIME AND MEMORANDUM**

The Respondent, Matthew S. McAlhaney, by and through his undersigned attorney, pursuant to Rule 240, SCACR, moves the Court of Appeals for an order extending the time for Respondent to file and serve his Initial Brief and Designation of Matter through and including Wednesday, June 4, 2014.

As appears from the affidavit of Respondent's counsel, which is attached to this motion, counsel was out of his office for surgery and physical therapy, leading, upon his return, to a deluge of work that has undermined his ability to complete the brief.

Four previous extensions have been sought by the Respondent.

Upon information and belief, the attorney for the Appellant will consent to this motion.

Respectfully Submitted,

By: 

Robert V. Mathison, Jr.
Attorney for the Respondent
Matthew S. McAlhaney

MATHISON & MATHISON
Post Office Box 5271
Hilton Head Island
South Carolina 29938-5271
Telephone: (843) 785-6503
Facsimile: (843) 785-6170
Email: rmathlaw@aol.com

May 2, 2014

Hilton Head Island, South Carolina.

MEMORANDUM

The relief requested in the motion set forth above is authorized by Rule 240, SCACR.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge

Case No. 2007-CP-07-02373

Court of Appeals Tracking No. 2010167969

Matthew S. McAlhaney, Respondent,

v.

Richard K. McElveen a/k/a Richard K.
McElveen, Sr., Individually and d/b/a
Battery Creek Marina, The Great
Pumpkin, LLC, Linda McElveen, Richard
K. McElveen, Jr., and Billy Joe Byrd, Defendants,

Of whom Richard K. McElveen, Sr., is the Appellant.

AFFIDAVIT
(Robert V. Mathison, Jr.)

PERSONALLY appeared before me Robert V. Mathison, Jr. (herein sometimes
"the Affiant"), who, first being duly sworn, says under oath the following:

1. My name is Robert V. Mathison, Jr., and I am an attorney licensed to
practice law by the state of South Carolina.

2. I am the attorney for the Respondent, Matthew S. McAlhaney, and I reside
at 21 Bateau Road at Hilton Head Island, in Beaufort County South Carolina.

RECEIVED
MAY 06 2014
SC Court of Appeals

3. I am 67 years of age, of sound mind, and I make this Affidavit of my own personal knowledge.

4. The Affiant's work generally, and, particularly his work on the Respondent's Initial Brief, has been significantly impaired by a chronic hip condition that recently became acute.

5. As a consequence, the Affiant underwent surgery (total hip arthroplasty) by Dr. James Karegeannes at Memorial Mission Hospital in Asheville, North Carolina, on Friday, March 14, 2014, after which the Affiant undertook to convalesce and to undergo physical therapy.

6. The period of limited mobility described above proved to be a good deal more grueling than the Affiant anticipated, and the Affiant was unable to do any but the most pedestrian written work.

7. The Affiant was cleared to drive and to return to work during the week commencing on April 7, 2014.

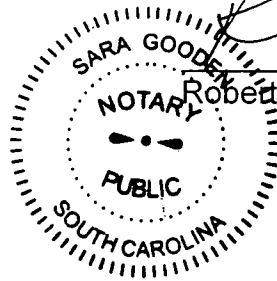
8. During the nearly four weeks that have ensued since returning to work, the Affiant has had to confront a backlog of cascading obligations in multiple cases, including a number that were not anticipated.

9. As a result, though progress has been made on the Respondent's Initial Brief, the Affiant will require more time to complete it.

10. The Respondent's Initial Brief and Designation of Matter would otherwise be due on May 5, 2014.

11. The Affiant has requested the consent to this Motion to Extend Time by the Appellant's counsel, who has heretofore been most accommodating in this matter.

FURTHER THE AFFIANT SAYETH NOT.



Robert V. Mathison, Jr.
Robert V. Mathison, Jr.

SWORN to before me this
2 day of May, 2014.

Sara Gooden
Notary Public for North Carolina
My Commission Expires 12/15/2021

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge

Case No. 2007-CP-07-02373

Court of Appeals Tracking No. 2010167969

Matthew S. McAlhaney, Respondent,

v.

Richard K. McElveen a/k/a Richard K.
McElveen, Sr., Individually and d/b/a
Battery Creek Marina, The Great
Pumpkin, LLC, Linda McElveen, Richard
K. McElveen, Jr., and Billy Joe Byrd, Defendants,

Of whom Richard K. McElveen, Sr., is the Appellant.

PROOF OF SERVICE

I, Robert V. Mathison, Jr., hereby certify that on May 2, 2014, I filed and served by mail, the originals and copies of the Notice of Motion and Motion to Extend Time and Memorandum and the Affidavit of Robert V. Mathison, Jr., both dated May 2, 2014, by depositing same, with sufficient first class postage prepaid, at the United States Post Office at Hilton Head Island, South Carolina, addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court
of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED

MAY 06 2014

SC Court of Appeals

Blake A. Hewitt, Esquire
Bluestein Nichols Thompson &
Delgado
Post Office Box 7965
Columbia, SC 29202

A handwritten signature in black ink, appearing to read "R. Mathison, Jr.", written over a horizontal line.

Robert V. Mathison, Jr.
Attorney for the Respondent

LAW OFFICES
MATHISON & MATHISON
POST OFFICE BOX 5271
HILTON HEAD ISLAND, S.C. 29938-5271
TELEPHONE: (843) 785-6503
FACSIMILE: (843) 785-6170
EMAIL: mathlaw@aol.com

ROBERT V. MATHISON, JR.

KERRY F. MATHISON

May 2, 2014

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court
Of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Matthew S. McAlhaney v. Richard K. McElveen, Sr., et al.
Case No. 2007-CP-07-02373
Tracking No. 2010167969

Dear Ms. Kitchings:

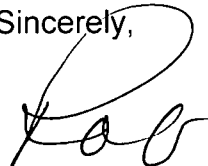
Enclosed for filing please find the originals and six copies each of the following documents:

1. Respondent's Notice of Motion and Motion to Extend Time to file the Respondent's Initial Brief and Memorandum dated May 2, 2014.
2. The Affidavit of Robert V. Mathison, Jr., dated May 2, 2014.

Also enclosed are the original Proof of Service and our check in the amount of \$25.00 to pay the filing fee.

With kind regards, I am

Sincerely,



Robert V. Mathison, Jr.

RVM:bh
Enclosures
cc: Blake A. Hewitt, Esquire
Mr. Matthew S. McAlhaney.

RECEIVED

MAY 06 2014

SC Court of Appeals